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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,955	01/23/2004	Paul Anthony Thomas	60130-2008; 02MRA0227	5064
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CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009			EXAMINER TORRES, MELANIE	
			ART UNIT 3683	PAPER NUMBER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/763,955
Filing Date: January 23, 2004
Appellant(s): THOMAS, PAUL ANTHONY

Karin H. Butchko
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed October 17, 2005 appealing from the Office
action mailed May 11, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 92/00465.

Re claims 1-11, WO 92/00465 discloses a disc brake pad backplate assembly comprising: a backplate (1) including circumferentially spaced abutments (17) separated by a distance, a pad spring (15) including end portions (29) and a central portion between the end portions, wherein the circumferentially spaced abutments of the backplate restrain lateral movement of the end portions of the pad spring; and a retaining feature (19) to mount the pad spring to the backplate, wherein at least one of the backplate and the pad spring includes the retaining feature, wherein the pad spring is dimensioned relative to the distance between the circumferentially spaced abutments such that a radially inward loading applied at the central portion of the pad spring causes the pad spring to function in a first resilient leaf spring-like mode where the end portions of the pad spring are unrestrained up to a predetermined load limit, and wherein above the predetermined load limit the end portions of the pad spring are restrained by the circumferentially spaced abutments of the backplate and the pad spring functions in a second buckling mode, and wherein a spring rate of the pad spring in the first mode is lower than the spring rate of the pad spring in the second mode.

(10) Response to Argument

Applicant argues the Fischer does not disclose a pad spring wherein the pad spring is dimensioned relative to the distance between the circumferentially spaced abutments such that a radially inward loading applied at the central portion of the pad spring causes the pad spring to function in a first resilient leaf spring-like mode where the end portions of the pad spring are unrestrained up to a predetermined load limit, and wherein above the predetermined load limit the end portions of the pad spring are restrained by the circumferentially spaced abutments of the backplate and the pad spring functions in a second buckling mode, and wherein a first spring rate of the pad spring in the first resilient leaf spring-like mode is lower than a second spring rate of the pad spring in the second buckling mode.

It is unclear to the examiner how the invention of Fischer differs from applicant's claimed invention since they appear to be identical in both structure and function. Applicant discloses on page 3, paragraph 10 of the specification that the novelty lies in that the pad spring end portions "are unrestrained up to a predetermined load limit. Above the predetermined load limit, the end portions are restrained by the abutments so that the pad spring functions in a second buckling mode." This feature is clearly shown and taught by Fischer. In Fischer, the leaf spring ends (29) are rounded in order to provide sliding along the curved portion of the backing plate (1) to a first spring-like mode and wherein the spring ends abut and are restrained by the abutments (17) in a second buckling mode which is clearly distinct from the first spring like mode to the

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same extent as applicant's invention. See Page 6, 2nd paragraph and page 7, 2nd paragraph of WO 92/00465. Further, it is disclosed and can be seen that in Fischer, the spring has slots 21 that engage the lugs in such a manner as to provide for sliding both without contact with the lugs and with contact with the lugs which would provide a first spring rate and a second spring rate.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

MT *YMB*

Conferees:

JM *[Signature]*
MB *[Signature]*

Melanie Torres
Melanie Torres
Primary Examiner